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[Document A.]

ANNUAL MESSAGE

OF

THE EXECUTIVE,

TO THE

GENERAL ASSEMBLY OF MARYLAND.

December Session, 1842.

ANNAPOLIS:
GEO. & WM. JOHNSTON, PRINTERS.
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MESSAGE.

Gentlemen of the Senate,
and of the House of Delegates:

That the Legislature may have, at an early stage of its session, a general view of the condition of the public affairs of Maryland, custom has very properly imposed upon the chief magistrate, the duty of making an annual communication. At this time, its candid and truthful discharge, (owing to the crippled and disordered condition of the finances of the State,) devolves upon him a high and unusual responsibility, and, if not a mortifying, certainly not an agreeable task.

Highly influential citizens of the State, enjoying the public confidence, and filling stations giving to their opinions undue authority, had united in inculcating the belief, that public and private interests were to be greatly benefitted by the policy which, for many years characterized our legislation. At length, however, the enormous amount of our public debt, destroying altogether public credit, roused the whole people to see and feel the reality of our situation. The apprehensions, very naturally excited by the deplorable condition in which the finances of the State were found to be, were in some degree soothed by the measures of your immediate predecessors, designed as they were, to furnish the means whereby the faith of the State should be maintained, and its engagements promptly met, and fully discharged. But, it has now become my painful duty to announce to you, that these measures have proved inadequate to the accomplishment of the object for which they were designed. This duty, unpleasant and mortifying as it is, imposes however, responsibilities far short of those devolved upon you, who are not only to ascertain and expose the extent of public embarrassments, but, to devise and apply an appropriate remedy. But whilst the Constitution assigns to you this more important labour, it is believed to be not unbecoming for me to declare, that the time has arrived when a decisive and distinct course ought to be adopted and pursued, as being alike due to our common constituency and their creditors. Coming as you do from the bosom of the community; representing every section of the State, enjoying its confidence, and familiar therefore, as you must be, with its wishes, intentions and resources, you are qualified, and doubtless prepared, to examine

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manifest, this object will not be accomplished. The interest in arrear is, as already stated, $859,656, and the revenue intended for its payment being only $622,386, there will be a balance of $237,270 chargeable on the assessment of 1843. To this we are to add $600,000, the anticipated deficit in the Treasury for the year 1843, making $837,270, and from that sum to deduct $491,877 the revenue to be expected from the direct tax for the same year, and there will be a balance of $345,393 to be provided for.

As the sinking fund may be looked to by some, as a source of supply to the Treasury, it is proper to state, that of this fund $1,158,476 is invested in the bonds of the State, and that the balance of $20,856 alone could be made available.

The general stagnation in business, the depression of prices, and diminution in the amount of the currency, naturally lead us to inquire as to the policy of providing a medium, that would facilitate the payment of the very large amount of taxes to come into the Treasury within the present fiscal year. Neither inconvertible paper, nor an increase of the bank issues are to be thought of. But it may not be considered inexpedient to authorize the tax-collectors to take in payment of the public dues, the coupons of the State bonds, and certificates of the commissioner of loans for interest, which it is proposed to pay out of the revenue to be collected. These evidences of debt are now much below their nominal value. They may be purchased by capitalists at present prices, and as the means for their ultimate payment are provided, the holders hereafter are to make a valuable speculation. If a certain portion of them were made serviceable in the payment of public dues, to be destroyed by the Treasurer upon being received, every tax-payer could become a purchaser; the price of them would be increased by competition in the market, and the burthen of the taxes would be diminished to the extent of the difference, between the sum paid to the holders of claims for interest, and the par value of such claims. In the event of such a policy being adopted, it would be necessary, of course, to classify these claims against the Treasury, so as not to have those receivable in any one year to exceed the amount of revenue payable within the same period.

The expediency of authorizing the Treasurer to use the bank stocks of the State by their transfer to its creditors, to meet the current demands upon the Treasury, is entitled to consideration. Such a measure would effectually separate the State government from the banking corporations, and in dissolving that alliance be productive of much good; and to the amount of the bank stock relieve the people from heavy and burdensome taxation. It does not seem to be sound policy to lay taxes to pay interest while we hold perishable capital that may be rendered, by mismanagement hereafter, entirely unavailable. To guard against unnecessary sacrifice, a minimum price could be fixed upon the stock.

I have no means of ascertaining what revenue may be expected for this year, (none having been received for the last,) under the

various tax laws passed at the last session. To obtain the information, inquiries were addressed to the officers having charge of their execution, and their replies will be submitted for your consideration.

If the law requiring licenses to be taken out by brokers is to be persevered in as a means of raising revenue, a modification of its requirements is indispensable, inasmuch as the sum demanded is so high as to preclude persons from applying for them. The income tax law needs, also, a declaratory statute to ensure to its provisions an uniform construction.

It is impossible to contemplate this condition of affairs without wonder and surprise, that, a prudent and economical people, enjoying justly a high character for the punctilious performance of all engagements, public and private, should be involved in a few years, in debts so enormous. In 1830 the State was in full possession of the means from its ordinary revenue, to meet promptly all its liabilities. About that time, the policy of internal improvement which promised to overwhelm the general government with debt and taxes, was undergoing a most strict and rigid examination. Public attention was directed intently, to the deliberations of Congress on the subject, and a public opinion, deep, strong and resistless, formed against the whole system, as equally premature, unwise, inexpedient and unconstitutional.

The veto of the then President on the Maysville and Rockville roads, and his triumphant re-election in 1832, were hailed as indications that, the day was yet distant, when the people of the United States were to be made to feel, that no form of government can be considered a guaranty for the peaceful enjoyment of the rewards of industry. Those who were administering the government of the Union, in all its departments, heeded the admonitions given by their constituents at the elections, and a course of measures in accordance therewith, eventuated in the payment of the whole national debt, in the reduction of taxes, and in the accumulation of a surplus of revenue of $28,101,644.91 which was afterwards distributed to the States. Unfortunately for this ill-fated State, every department of its government was under control of those holding opinions, which had been condemned by the judgment of the whole country. They refused to abandon altogether, an extravagant system of roads and canals that cannot be consummated in a country like the United States, where population is scattered and sparse. Measures were taken to place Maryland in the van of those States ambitious of rivalling Great Britain, Holland, and other countries where the population is crowded and dense, and where their vast numbers justify large expenditures to facilitate intercourse. In the short space of seven years succeeding the veto of the President, our State debt was augmented more than twelve million of dollars. Within the same period, other roads and canals were projected, until, (it will seem incredible now when the public mind is perfectly sobered,) we beheld the little State of Maryland, having ten thousand square

miles of territory, and 318,194 white inhabitants, staggering along with undertakings that would task the financial resources of the whole kingdom of Great Britain, clothed as it is with power, by means of its standing armies, to extort for public purposes, from the hand of industry, every dollar it has earned.

We were, at one and the same time, projecting or constructing a rail road to Annapolis, a rail road from Baltimore to Washington, a rail road from Baltimore to the Susquehanna, a rail road on the Eastern Shore, a rail road from Baltimore to the Ohio, and a magnificent canal from tide water on the Potomac to the Ohio river. If the people of the State had then comprehended, as they do now, the means by which this grand system was to be conducted, it is not to be doubted, but that they would have risen in their strength and have swept from power, everywhere, all its authors. Or, if the unfortunate purchasers of Maryland bonds had then understood, as most of them now understand, the financial measures devised to ensure the punctual payment of interest promised upon the face of them, speculators and their speculations must have been arrested, for no one would have been hardy enough to make investments of his capital in securities, for the payment of the interest on which, no suitable means had been provided.

There was a time when no statesmen would have risked his reputation by proposing to contract a public debt, without at the same time levying a tax to pay the interest, and eventually to redeem the principal. It was considered but just to levy the tax, that those who were to pay the debt might have full and distinct warning as to the extent of the obligations they were entering into; and, it was esteemed equally just to do so, that the public creditor might make his investments on a sure foundation, and with a perfect understanding of their character. This salutary rule was disregarded by those who had charge of our public finances. They depended for the payment of interest upon contracts, entered into with the various companies to which bonds had been issued, and those companies relied upon the remote and very contingent possibility that the works projected, would when completed, afford an income to pay interest on the cost of their construction. By this proceeding both the tax-payers and the public creditors of Maryland have been misled; and now, the alternative is presented of repudiating our debt, or, of submitting to the exactions of the tax-gatherer.

Such was the indignation of many, when first awakened to a true conception of the whole subject, that a strong disposition prevailed to deny all obligations to pay the debt, on account of the absence of constitutional power in the Legislature to contract it. In support of this opinion, the thirteenth article of our Bill of Rights, (which is declared to be a part of our Constitution,) is mainly relied upon. It is not obvious that it will bear such a construction. And moreover, it is not clear that it would be right now to interpose such an objection to the payment of the debt, since the people of the State have year after year, from the various counties and

cities, re-elected those who were fastening on us the policy, now so grievous in its consequences.

The article of the Bill of Rights alluded to, declares that, "every person in the State ought to contribute his proportion of public taxes for the support of government, according to his actual worth in real and personal property." It is contended that taxes can be levied only "*for the support of government*," engaged in legitimate objects, and it is denied that the construction of roads and canals is one of the purposes for which the government was organized. Without intending to enter into the argument, it may not be amiss to remark, that one of the modes of ascertaining the true meaning of the Bill of Rights is to be found in the practice, purporting to be in pursuance of its provisions, of those by whom it was framed. Looking for that practice we find the statute books of Maryland are full of laws authorising the opening and establishing of roads. And we find also there, numerous acts of Assembly delegating power, (and the Legislature cannot delegate what it does not possess,) to the corporate authorities of cities to open, pave, and otherwise improve streets, and to commissioners and other officers of counties, to lay out and repair roads; to build bridges, and to levy on the assessable property within their respective jurisdictions, taxes to defray the expense attendant upon the exercise of the powers thus granted.

Whatever may be the contrariety of opinions, all doubtless, honestly entertained, as to the constitutional competency of the Legislature which contracted our internal improvement debt, it would seem there must be a concurrence of opinion, that the present lamentable state of things demands some guaranty to the rights of private property for the future. However the contest between those who deny, and those who contend for the existence of this power in government may eventuate, it is easy to foresee the most lamentable consequences are inevitable to one or the other class, equally innocent, of its unfortunate victims. If the debt could be repudiated, numerous bond-holders are to be beggared; and if it is paid, the people of the State are to be oppressed, most grievously, with taxation. Seeing this, ought not all to unite in devising an effectual, complete and perfect guard against a possible recurrence of such painful alternatives.

Experience proves that the vigilance of the people is not always a sufficient guard against improvident legislation. Occupied as they must be, by daily returning toil, in pursuits intended to secure personal comforts for themselves and their families, they have not an eye constantly fixed on the proceedings of their representatives. Intervals of a long series of years will occur, when public attention is diverted too much from the action of government, and at such times, mistakes and abuses, in the administration of public affairs, gross and glaring, will be committed necessarily. For these ordinarily, a remedy is to be found in a change of rulers. No such remedy however can be applied where the public faith has been pledged under contracts, entered

into by one generation, to be fulfilled by another. This being the case, the instances in which, and the purposes for which a public debt may be contracted, ought to be pointed out, distinctly as possible, in the Constitution.

As necessarily connected with the subject of the public debt and internal impovements of the State, the attention of the Legisture is invited to the law passed at December session, 1840, prescribing the mode in which all agents and directors, intended to represent the State in the joint stock companies, shall be appointed and continued in office. To appreciate the purpose, intent and effect of this law, a few preliminary observations are indispensable.

It is known everywhere, that prior to 1836 the Governor of Maryland was elected by joint ballot of the two Houses of the Legislature. It is equally well known, that at that time, such was the unjust principle of apportionment, adopted in the distribution of the members of the Legislature to the several counties and cities, that a very small minority of the people had perfect controul of both branches. This took necessarily and entirely out of the hands of the majority, the whole executive and legislative power of the State. For a long series of tedious years, the majority continued to remonstrate against this anti-republican and tyrannical organization of the powers of government. Their petitions were not heeded, although the Legislature was especially clothed with power under the Constitution to remodel and amend it, so as to adapt its provisions to changes, which its framers foresaw, when they were fashioning it more than half a century ago, would take place in the distribution of the wealth and population of the State. Wearied at last with merely petitioning for a surrender of usurped power, exercised as it often was most unjustly and oppressively, the representatives of the majority of the people, the patriotic and glorious nineteen senatorial electors, in strict conformity with the very language of the Constitution, devised and executed a movement, intended and well designed to force, if not an entire surrender of inalienable rights, at least some compromise of conflicting claims. The movement was succeeded by amendments to the Constitution, re-organizing the executive and legislative departments of the government. The people were authorized by direct vote to elect a chief magistrate, clothed with all the executive powers which his predecessors had possessed. The House of Delegates was new modeled, so as to make it approximate more nearly than it had done, a body where the popular will could be reflected. The members were also re-apportioned amongst the counties and the city of Baltimore, but neither wealth nor population was made the basis of representation. An arbitrary rule was adopted under which, the large counties and the city of Baltimore have five, and the smallest counties have three delegates. The Senate was changed, so as to dispense with the agency of electors, each county and the city of Baltimore having power to chose one mem-

ber. And now, the Senate is so constituted that the members in that body, representing less than one-third of our population, can prevent the passage, or repeal of laws, against the sense of the other members of that body, representing the other two-thirds of the population, and the entire House of Delegates united.

At the time of the election of my predecessor, the agents and directors of the State in the several joint stock companies were by law to be appointed by the Governor, subject to the confirmation or rejection of the Senate. This mode of appointment had prevailed during the existence of the old Constitution, while the minority had uninterrupted sway. This power is now not only taken from the executive, but from the House of Delegates. The present agents and directors of the State were appointed by this law at December session 1840, to continue in office until their successors should be chosen by concurrent vote of the two houses. They have been continued in office since without re-appointment, as the House of Delegates and Senate have never concurred in the election of their successors, and it is not probable they will speedily do so.

The interest of the State is very large in the companies incorporated to make roads and canals. The power of those companies is very great to effect the well-being, the happiness and prosperity of the people. Through their influence over the Legislature, an enormous public debt has been contracted. In the exercise of their authority, the whole currency of the State has been repeatedly deranged. Their incomes and disbursements exceed largely, the ordinary revenue and expenditures of the State, and in fact they constitute an *imperium in imperio*, sufficiently powerful to justify a people jealous of their rights, in insisting upon the subordination of their governments to the only sovereign power in the State, the popular will signified through its immediate representatives. It is most respectfully submitted for your consideration to determine, whether this law of December session 1840, ought not to be repealed, or at least remodeled so that the authority with which the Senate is now clothed, may be placed in the House of Delegates, or in the Legislature, to be exercised on *joint* ballot, to guard against its employment for any other purposes than those promotive of the great public interests involved. It cannot be expected that all parties, and all classes can be harmonized in support of any system of taxation that may be devised, if the whole people are to pay, and the minority alone, to manage and expend all the public revenue.

Letters will be communicated which have been received from the Treasury Department of the United States, giving information as to the distributive share of this State of the proceeds of the sales of the public lands. From them it will appear, that the distributive share of Maryland is $15,187.84, and that the claim of the United States on account of interest due on Maryland bonds held in trust for certain Indians, is $19,483.81, and that the Treasurer of the United States has retained the whole fund, and still has an unsettled demand for $4,296.27.

Nothing has influenced more fatally the evil councils by which so many of the States have become involved, than the delusive expectations re-kindled constantly as fast as they are quenched, of pecuniary largesses from the national treasury for State purposes. The distribution law, (miscalled the deposit act,) which beggared the general government, whilst but few of the recipients of its bounties have been enriched, caused a most unfortunate revolution in public feeling, if not in public opinion. The possession of that fund, stimulating as it did the wildest public speculations, destroyed at once, all those salutary restraints founded in the habits of the people, and the condition and powers of their local governments. An inexhaustable fountain of wealth, it was believed, had been opened, which was to flow in perennial streams into the State treasuries. State legislators, it was thought, were no longer to be limited in their operations, or abridged in their expenditures, by the amount of revenue they might be emboldened to take directly by taxes from the pockets of the people. A new source of supply was to come through the breach made in the Federal Constitution. Private property was to be obtained for public purposes, by a less perceptible, because more circuitous route. High tariffs were to be levied to supply, not only the demands of the national treasury, but in conjunction with the land sales, to furnish a surplus for distribution, after that deposited was exhausted. Under the influence of these and similar delusions, the large and oppressive debt of Maryland has been contracted. And now, when the people are groaning under the weight of the taxes imposed, we have an exhibit of their share of the vast amounts expected from the national treasury, in a sum insufficient to pay the interest on a few bonds held in trust for tribes of Indians. This is the result of the land bill. It is as fruitless as ashes. This melancholy and mortifying disappointment to most buoyant hopes, should warn the tax-payers not to be tantalized by specious devices. Our public debt, if paid, must be paid out of our own resources. Whoever thinks otherwise, follows a phantom.

The evil consequences, threatened by our State liabilities to our institutions, are greater far in the measures they have prompted as a means to escape their direct payment, than their effects as invasions of the rights of private property. There is an energy and elasticity in the American character, that will soon cause the whole country to recover from its present depression, without governmental aid in any form. But there is cause to fear that errors of opinion, growing out of our pecuniary difficulties, as to the nature of our complex and beautiful system of government, may not be so soon eradicated. Unlimited authority to dispose of the public lands, was not seriously and generally claimed for the government of the Union, until after the power to consummate a grand system of roads and canals was denied to be in Congress. After that, the deeds of cession for that part of the national domain lying east of the Mississippi and north of Florida, were so construed as to make language, declaring expressly that the land ceded to the United

States "should be considered a *common fund*," for the use and benefit of the United States, mean that the grantee in the deed should dispose of them, and make *separate funds* for each of the States in the confederacy; and the stipulations in the same deeds that the lands should be used for the benefit of the *United States*, according to their usual "respective portions in the general charge and expenditure," was made to signify, that Congress should have power to distribute to the *several States*, the money arising from land sales, not according to their respective portions in the general charge and expenditure, but to an *arbitrary rule* of distribution, to be found in the land bill. As to the vast domain purchased by money out of the common treasury, no power to distribute the proceeds of its sales being found in the several treaties, authority for that purpose was derived from that article of the Constitution intended only to clothe Congress with power to sell the lands, or dispose of them in the same manner as the other property of the United States may be, for the purposes of the general government.

The land bill, the creature of these constitutional doctrines has had its day. It has most signally failed to answer the purpose of its authors; and we are now to encounter, in another form, a temptation to give such an enlargement to the powers of the general government, as would ultimately consolidate under one head, all those now possessed and exercised by the several States.

The proposition to issue a government stock of several hundred millions of dollars, to be exchanged for State bonds, has as yet but few public advocates. It is however sufficiently countenanced to justify serious consideration. It is not designed to relieve the people of their obligation to pay annually the interest of their public debts, but, to have the taxes for that purpose levied by our representatives in Congress instead of by the members of the State Legislature. And it is intended to have the necessary taxes imposed on our wearing apparel, on our sugar, coffee and salt, instead of our lands and personal property.

There is no power in Congress to levy taxes, duties, imposts or excises which shall not be uniform throughout the Union. There is now no surplus in the national treasury. It is then obvious, if the States' debts are to be assumed, that it will become necessary for Congress to levy heavy taxes, not only on the people of the indebted States, but upon those of the whole Union. How the States involved would be relieved by this process is not perceivable. The tax-gatherers it is true, would be placed out of sight, but their exactions would not be on that account the less exorbitant. And our constituents, without experiencing any alleviation of their own burthens, would have only such consolation as might be derived from the conviction that they had assisted to extort from their fellow citizens in other States, large amounts of their means, not needed for the purposes of their governments, and therefore destined to be wasted in extravagant projects of improvement, or on objects even less advantageous. Besides, no article of the Federal Constitution, even by the most forced construction, can be called in aid of

this bold undertaking. In all the precedents relied upon to justify such a measure, it will be found that Congress required, that the debts of the States to be assumed should have been contracted in the discharge of such duties, as the general government is authorised to perform for the whole Union. Such was the basis and character of the act of 1790.

If Congress will assume the payment of State debts, without regard to the purposes for which they were contracted, there will then be no limits to the power of the general government, worth preserving, except those to be found in the State Constitutions. In such an event, we would be already under a consolidated government, and the present generation would in all probability witness, a division of the Union into as many separate republics as there are contrarient and antagonist interests, now moving in perfect harmony around a common centre. If you concur with me that consequences like these may possibly grow out of the proposed measure, it cannot be doubted but, that your deliberations will result in its prompt rejection.

The annual communication of the Chesapeake and Ohio Canal Company has been received, and will be laid before you. It makes an exhibit of its affairs, by no means encouraging. The debt of this company to the State, for interest, was on the 1st December $1,104,368. Their debts to other parties on the same day, amount to $886,677. They require to complete the canal to Cumberland, $1,545,000. This bankrupt condition of the Canal Company, and the deep embarrassment of the State, may be, in a considerable degree, traced to the rejection, at December session 1839, of the bill, intended and calculated to afford the means to the company to proceed without interruption, in the work then in progress. While we are prepared to point to the calamitous consequences of that act, the motives for it are not so palpable. Charity would teach us to trace it to most erroneous opinions of public policy.

That the canal ought to be completed to Cumberland is generally conceded. The work was originally undertaken, mainly, in the expectation that the transportation of coal, lying beyond and in the vicinity of Cumberland, would remunerate the stockholders, and greatly benefit the State, by developing its mineral resources. Under these impressions, one half of our whole internal improvement debt was contracted, to prosecute the undertaking, and that amount is now an unprofitable investment, and will continue so, until the canal constitutes a line of communication between the coal fields, the iron ore banks, and lumber regions of Allegany, and tide water in the Potomac. The sum now required to complete this line, is estimated by the chief engineer of the company, as above stated, at one million five hundred and forty-five thousand dollars. This estimate is believed to be correct. How this money can be procured is a question, entitled to your most serious consideration. Upon its solution depends, in a great degree, the efficacy of all other mea-

sures, devised to maintain the public credit. Taxation will be submitted to, more cheerfully, if a day, not too distant, can be distinguished, when the income on the canal will diminish, if it did not remove altogether the public burthens. But, if that work is to continue as it is now, entirely unproductive, there is cause to apprehend that public patience and endurance may be exhausted. In addition to the amount required to finish the canal, a further sum is necessary to liquidate the claims of its meritorious creditors. They have faithfully given their labor to the construction of that part of the canal now to be completed. In so doing, they have given value, to the amount of their claims, to the property on which the State holds a mortgage; while, by reason of this lien, they are denied an opportunity, to enforce a compliance with contracts, entered into with officers of the company, acting under authority derived from the State itself. It will not be anticipated, that as a means of saving the stockholders of the company from pecuniary sacrifices, these claims are to be pretermitted in the seizure of the fruits of the labour of the parties to whom they are justly due.

It is much more easy to decide, as to the impolicy of measures proposed to complete the canal, than to devise suitable and efficient means to consummate so desirable an object. All will admit that no measure would be salutary, analagous to those, the evil consequences of which we have so recently experienced. The grievous consequences to the whole State, and the cruel wrongs inflicted, by that derangement of our currency, from the effects of which we are now only recovering, should warn us against adopting any measure, that may again flood the State with a paper not redeemable in gold and silver. Unless the past be forgotten, it would seem, that no measure, clothing with power the directors of the Canal Company, to circulate anything but money, would be for a moment entertained. To authorize their medium of payment, to be either, in scrip of small denominations, or, in bonds of the company fluctuating in value, would cause the whole community, where their work is to be prosecuted, and the State at large, in a great degree, again to become a theatre for the most ruinous and demoralizing speculations.

The Legislature at its last session, in compelling resumption of specie payments, by the banks, responded to the well ascertained public wish in favor of a sound currency, redeemable on demand in gold and silver. That action was forced upon the State by dearly bought experience. The directors of the various companies engaged in internal improvements, in the exercise of an acknowledged power, and responsive to the ascertained will of the Legislature, had, in unison with the banks, put in circulation a quantity of irredeemable paper, far beyond the wants of the public. When that reflux of the tide, to which all paper currency is exposed, swept over us, hundreds and thousands, incapable of resistance, were borne upon it to irretrievable

ruin. Notwithstanding this very recent calamity, there are those now, such is their zeal in behalf of those interests, supposed to be identified with the canal, who are ready and willing to adopt a policy like that we are considering. They are prepared to clothe the canal directors with express authority to issue, and circulate, bonds, scrip, and other evidences of debt, having no other basis to rest upon but, that to be found in the remote contingency of a large and liberal income from the canal, when finished, three years hence. Such a circulation must, even if it accomplished the purposes of the stockholders, disturb again all the interests of society, and ultimate, as the like currency formerly did, in the beggary, and bankruptcy of whoever may trust in its delusive promises. To the Senate and the House, the public look for a guaranty against any such disastrous proceedings. To them belongs the responsibility to decide, as to the extent of the powers which the officers of this corporation shall exert. Should the law even permit the circulation of irredeemable paper, the company may be justified in exercising any authority it may possess. Nothing but an express prohibition, to its issue, in any law that may be designed for relief, will afford effectual protection to all interests involved.

The policy of amending the canal charter, so as to authorize an issue of a preferred stock, to an amount sufficient to complete the canal, and pay its debts, may be entitled to some consideration. When the canal is completed to Cumberland, we may safely anticipate a trade sufficient to keep the work in repair, and yield an amount of tolls, not less than two hundred thousand dollars annually, to be divided amongst the stockholders. Assuming that this anticipation may be realized, we should have in the tolls of the company, a fund, abundantly adequate, to ensure a prompt payment of a dividend of six per cent. per annum, on at least three million of dollars; a sum more than may be required to accomplish the purposes we so much desire to attain. The State could, out of its annual income, set apart in the hands of commissioners a sum, sufficient to pay the interest on such stock until the Canal could be finished.

With the certainty of such an interest, on a preferred stock under charter stipulations, which could not be disturbed, either by the directors of the company, or by the State, it does not seem very unreasonable to expect, that capitalists may be found, willing to pay money for an amount sufficient to finish the canal The creditors of the company would certainly find such certificates of stock more available than the evidences of debt they now hold. An issue of State bonds is considered by all out of the question.

Your attention is respectfully invited to the consideration of the Judiciary system of Maryland. The State is divided into six Judicial districts, but upon a basis of the grossest inequality. For instance, in the sixth district there is a population of upwards of one hundred and fifty-one thousand, whilst in the first, there is but

a population of forty-eight thousand seven hundred and eighty-six. When it is remembered that, all the people contribute alike, in proportion to their property, to the wants of government, there ought to be no such gross inequality in the distribution of the fund intended to secure a prompt and efficient administration of the laws.

We have in commission, twenty-one common law Judges and a Chancellor, at an expense for their salaries of $36,500 per annum. There can be no question but that many of these officers are supernumeraries. We are now surrounded by States, in no one of which is to be found, such an extravagant and ill-organized Judiciary system as ours, and in all of which, the laws are still faithfully executed without complaint from the public as to their delay, and an absence of all protest by the Judges in commission, against the imposition of duties too onerous to be easily performed. Indeed, there is not a State in the whole Union, notwithstanding the population of several of them is quadruple that of ours, where the number of the law Judges, and the amount of their salaries, are not less than those of Maryland. New York, Pennsylvania, Virginia and Ohio having, three of them, a population four times greater, and one of them a population more than three times greater than ours, pay respectively a less sum in the annual salaries of their Judges than that with which our Treasury is charged. The same States have each a superficies over which their laws are extended, more than four times as great as that of Maryland, and nevertheless have in commission a less number of Judges. In the payment of unnecessary salaries to Judges, since our system was framed, more than five hundred thousand dollars have been wasted. With these illustrations before us, of the effects to be expected from a re-organization of the system, so as to diminish sensibly its cost, we ought not to pause in the discharge of a high public duty, from any apprehensions as to the effect of such a proceeding on the interests and well-being of society.

Besides these objections to the system, another will be found in the fact, that no effectual means are provided in the Constitution, to get rid of Judges once commissioned, as promptly as the public interests may sometimes demand. The tenure during good behaviour is found in practice to be tantamount to a term for life. A Judiciary, independent of all the evil passions that may influence. at intervals, the mass of the community, is certainly desirable, But it does not appear, that a tenure for life will in itself, exempt the occupant of a seat on the bench from the possibility of feeling in a greater or less degree, a sympathy in the passions, that sometimes sway to and fro our popular assemblies. Observation compels us all to contest such a conclusion. A tenure for life is, and ought to be, a popular doctrine in Great Britain. Such a tenure there, may afford a safeguard to the people against the influence of the Crown. The commissions of the Judges being granted by the King, a periodical re-appointment would give to

the sovereign a most dangerous power in the opportunity to dismiss all who were not willing to prostitute their offices to subserve his purposes, however tyrannical and unwarrantable. Here, we have no permanent or hereditary executive to dread. All our public functionaries, but the Judges, return at stated periods, to their separate stations in private life, to give place to successors qualified to rule, by having been taught to obey. It is believed, that there can be found neither in our experience, where the life tenure of Judges prevails, nor in the experience of several of the States of the Union, where all such distrusts of popular intelligence and integrity have disappeared, any good reason for adherence to a doctrine becoming daily more and more obsolete. There was a time when improvements in government were hard to make. Those who were interested in existing abuses, could arrest innovations and changes by magnifying and misrepresenting the effects of a proposed reform. But it is time that such artifices should lose all influence on our deliberations. In the hope that full justice will be done to all the deep interests involved, the whole subject without further remark is submitted to the Senate and House, who are empowered to make such alterations in the fundamental law of the State, as may be required.

Several communications from the internal improvement companies and other sources have been received, and will be laid before you.

In conformity with the request of the Legislature, copies were forwarded of the following resolutions of the last session,—resolutions in relation to the increase of the Navy of the United States; resolutions in relation to the Santa Fe traders; and preamble and resolutions in relation to the District of Columbia.

Agreeably to direction of resolution No. 31, of the last session, orders were given for the manufacture of a sword to be presented to Capt. John A. Webster, as provided for in resolution No. 3, of December session 1835. Although no time was lost in giving the necessary order, the sword has not as yet been prepared. So soon as it is received, it will be presented.

The repairs authorized to be made to tobacco warehouses Nos. 1 and 3, in the city of Baltimore, by resolution No. 28, of last session, have been made. Those made to warehouse No. 1, amount to $1,356.79½, and those to warehouse No. 3, to $478.20.

By the act of 1827, chap. 140, the sum of $3,500 is annually appropriated for the education of the indigent deaf and dumb of this State; and by the act of 1837, chap. 173, the sum of $1000 is annually appropriated for the education of the indigent blind. The act of 1839, chap. 28, provides, that in case there shall be recommended to the Governor by the trustees of the poor of the different counties, more indigent blind children than can be educated under the provisions of the act of 1837, chap. 173, any surplus which may annually remain in the treasury of the sum of $3,500, appropriated for the education of the deaf and dumb, shall be applied to the education of the indigent blind. In pursuance of the provisions of these acts, the sum of $2,068.94, was ex-

pended during the last year for the education of the deaf and dumb, and the sum of $1,610, for the education of the blind; leaving in the treasury of the joint fund, unapplied, the sum of $821.06.

In the month of April 1840, a murder was committed in Frederick county by Frederick Fritz, alias Jacob Brucker, who was at the following April term of Carroll county court, tried, convicted and sentenced to be hung. My immediate predecessor signed the warrant for his execution, but afterwards granted a respite at the request of a number of respectable persons who suggested doubts of his sanity. This was done to give an opportunity of collecting information respecting his previous history, which, it seemed, has not been made a subject of inquiry at his trial. Many depositions and communications were received by my predecessor, stating particulars, which, in his judgment, if truly set forth, were sufficient to shew that Fritz had been subject to fits of insanity for many years, and that he was completely deranged when last seen in the city of Washington, a few days before the commission of the crime. Statements were also received of the opinion of respectable and intelligent citizens of Westminster, who had opportunities of seeing and conversing with the prisoner. Their opinion was, that he was in full possession of his reason, and subject to no disorder of mind, except such as was occasionally produced by a violent and ungovernable temper.

The conflicting character of these statements as to the sanity of the prisoner, determined my predecessor, (after consulting with Judge Brewer, who sat upon his trial, and who thought a further investigation ought to be made as to the condition of his mind,) to suggest to the Legislature, the propriety of authorizing the court of Carroll county, to examine witnesses at its next term on the subject. In conformity with this suggestion, a bill was introduced into the Senate, and passed by that body, but was not acted upon in the House of Delegates, because, it is presumed, of the shortness of the time which remained of the session after it was received in the House. In consideration of these circumstances, it was deemed proper to withhold the warrant for the execution of the prisoner, so as to enable the Legislature to act definitely upon the suggestion of my predecessor, which is now respectfully renewed.

Believing that the affairs of Maryland, at this time, should first command your consideration, allusion has been purposely avoided to many matters of great national importance. In the hope that this course will be equally agreeable to the Senate and House, I beg leave to express the belief, that by wholesome legislation and judicious reforms, the evils under which the State now labours, will at no very distant day, be removed. In the character of our State, of which every Marylander has just cause to be proud; in its agricultural, mineral and commercial resources, the untiring energy and proverbial patriotism of its people, we should all find the hope and consolation, that great as are its present embarrassments, they can, and will be, ere long, surmounted. Invoking then, at this

crisis, the exercise of your highest intelligence in behalf of our State, its affairs are submitted for your legislative disposition.

FRANCIS THOMAS.

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